



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

INTERNATIONAL BROTHERHOOD OF POLICE
OFFICERS, LOCAL 464

Petitioner

v.

BOARD OF POLICE COMMISSIONERS, CITY OF
NASHUA, NEW HAMPSHIRE

Respondent

CASE NO. P-0740:3

DECISION NO. 89-21

APPEARANCES

Representing I.B.P.O., Local 464:

Matthew Buckley, Esq., Counsel

Representing Board of Police Commissioners:

Judy Constantion, Esq., Counsel

Also appearing:

Raymond Landry, Chief
Richard R. Gagnon, Deputy Chief
Raymond Cabana, Captain
Douglas Sparks, President Local 464
J. Sandra Leonard, Officer
Leonard Kulikowski, Officer
Kurt Gautier, Officer
Ed Brousseau, Retired Police Lieutenant
Clifton Largy, Officer
Cris Welch

BACKGROUND

The International Brotherhood of Police Officers, Local 464 (Local) filed unfair labor practice charges against the Board of Police Commissioners, City of Nashua (City) for failing to pay Officer J. Sandra Leonard the three-hour minimum time and a half for time in court as agreed under the collective bargaining agreement.

The City filed a Motion to Dismiss in lieu of answer stating the Local had failed to set out any facts, merely alleged a conclusion that the City had failed to pay Officer Leonard the three hour minimum time and a half for time in court; failed to provide detailed facts upon which to base its conclusion; or exhaust all its administrative remedies prior to the filing of charges with the Public Employee Labor Relations Board (Board).

A hearing in this matter was held in the Board's office in Concord on February 16, 1989 with all parties represented.

Counsel for the Local requested the Board accept an amendment to the charge regarding the letter of reprimand. Counsel for the City objected to the amendment, objection was noted, however the Board allowed the amended charge.

FINDINGS OF FACT

1. Article XI, Grievance Procedure, Section A, Step 5, states:

"Failing a settlement at Step 4, the grievant may present the grievance in writing, to the Association within thirty (30) working days after the reply in Step 4. If the Association feels that the grievance has merit and that submitting it to arbitration is in the best interest of the Nashua Police Department, the Association may submit the grievance to the American Arbitration Association, the Public Employee Labor Relations Board, or Hillsborough County Superior Court within sixty (60) working days after receiving the grievance from the grievant."

2. Officer Leonard was scheduled to appear in Court on March 24, 1987 as the arresting officer in a DWI case. Because witness Officer Leonard was late in getting to court, the charge against the offender was reduced to reckless operation.
3. Officer Leonard upon arriving at the Nashua District Court completed her Request for Witness Fee showing her appearance on March 24, 1987 with hours of attendance as 0900 to 0915 hours for total of 3-hour minimum appearance time. Request upon completion was submitted and signed by Prosecuting Officer Edward Brousseau.
4. March 24, 1987 was the first time Officer Leonard arrived late, however she was issued a written warning, which became part of her personnel file, and her request for overtime pay was denied.
5. While another officer was scheduled to appear in court on the same day, March 24th, and did not appear, no disciplinary action was taken against him.
6. Officer Leonard filed a grievance in accordance with the existing agreement seeking removal of the reprimand letter from her personnel file and full reimbursement. Grievance was denied on Steps 1 thru 4.
7. Lateness to court although not condoned, has been accepted. Evidence indicated that officers were habitually late for court appearances and the Department indicated action would be taken in attempts to curtail such happenings in the future.


DECISION AND ORDER

Upon review and consideration of testimony and materials filed in the above - entitled matter, it is apparent that Officer Leonard was singled out in an effort to correct an infraction common to many officers.

Now therefore based on the foregoing, findings of fact and for the foregoing reasons, it is hereby ORDERED:

1. That the letter of reprimand be removed from Officer J. Sandra Leonard's personnel file; and
2. That the Board of Police Commissioners, City of Nashua shall pay Officer Leonard for the 3-hour minimum time and a half for time in court on March 24, 1987 in accordance with Article XXVII of the collective bargaining agreement.
3. That although the grievance procedure negotiated by and between the parties is legal and workable, the parties are urged to pursue grievances through arbitration under the American Arbitration Association or by request for a list and assignment of a mediator through the Public Employee Labor Relations Board.
4. The parties are to report compliance to this order within 30 days or no later than April 15, 1989.

Signed this 14th day of March, 1989.



Jack Buckley
Alternate Chairman

By unanimous vote. Alternate Chairman Jack Buckley presiding. Members Seymour Osman and James C. Anderson present and voting. Also present, Executive Director, Evelyn C. LeBrun.